WP(C) 2229/2007

BEFORE

THE HON'BLE MR. JUSTICE H.N. SARMA

Heard Mr. U. Bhuyan, learned counsel for the petitioner. Also heard Ms. P. Barman who appeared by filing wakalatnama on behalf of respondent No. 4. and the learned Government Advocate for the state respondent.

The challenge made in this writ petition is the order No. FISH. 73/2007 /19 dated 7.5.2007(Annexure-D) issued by the Government of Assam by which direct ion has been issued to the Deputy Commissioner, Jorhat for settlement of No. 19 Brahmaputra Part III(A) Fishery by inviting tender in terms of the relevant Fish ery Rules. By the said order an interim arrangement has also been made allowing the respondent No. 4 to run the said Fishery on daily basis for the interim peri od.

The aforesaid order was passed setting aside terms of the judgment and o rder dated 19.8.2006 passed by this court in W.P.(C) No. 6308/2006 by which the extension for settlement of the said Fishery was granted to one Prabin Kumar Das. Accordingly after passing of the order, Fishery is required to be settled in terms of Rule 12 of the Rules as amended on 30-1-2005.

Mr. Bhuyan, learned counsel for the petitioner challenging the impugned order submits that by virtue of the impugned order no time frame was made during which the said tender process should be completed. That apart the making of int erim arrangement to run the Fishery on daily basis in favour of respondent No. 4 is not contemplated under the Rules more particularly as per Rule 23 (as amend ed by the Fishery Rules). The period from April to July 15 being the breeding se ason no lessee is to operate within this period.

Ms. P. Barman appearing on behalf of respondent No. 4 producing the cop y of the report furnished by the Deputy Commissioner, Jorhat to the Government d ated 12.4.2007 submits that in fact for such interim arrangement, the present pe titioner was also an applicant and he having been operation of another Fishery v iz. Brahmaputra Part III(B) was not considered for providing the benefit of int erim arrangement. The learned counsel submits that the said interim order is onl y an interim one and it automatically comes to an end after settlement of the f ishery in terms of the Rules on which direction has been issued to flout the ten der.

Upon consideration of the rival contentions made by the learned counsel for the parties it is seen that there is no diversity in opinion regarding the s ettlement resorting the tender process in terms of Rule 12 of the Fishery Rules (as amended) but the impugned order though does not disclose any time frame fo r such settlement. Certainly in view of the nature of the settlement taken up fo r an indefinite period so far the said interim arrangement was made only for the interim period of settlement so that the revenue of the State is not lost in th e meantime. Considering the rival contentions, it is directed that the aforesaid process of settlement shall be completed by the respondent authorities more par ticularly by the Deputy Commissioner within a period of not less than 3 months f rom the date of receipt of the certified copy of the order. However the interim arrangement as in terms of the impugned order will continue till making such set tlement by tender process. The Deputy Commissioner, Jorhat and other respondents shall strictly follow the provisions regarding fishing in any Fishery by any le ssee under the district within a period as contained in Rule 23 of the Fishery R ules. In the state of clarification, it is further directed that Deputy Commissi oner shall strictly follow the provisions of Rule 23 in respect of Fishery withi n his district in the matter of fishing for a period as mentioned therein.

With the aforesaid observations and directions this writ petition stands closed.